

NOTICES OF EXEMPT RULEMAKING

The Administrative Procedure Act requires the *Register* publication of the rules adopted by the state's agencies under an exemption from all or part of the Administrative Procedure Act. Some of these rules are exempted by A.R.S. §§ 41-1005 or 41-1057; other rules are exempted by other statutes; rules of the Corporation Commission are exempt from Attorney General review pursuant to a court decision as determined by the Corporation Commission.

NOTICE OF EXEMPT RULEMAKING

9. HEALTH SERVICES

CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION

PREAMBLE

1. Sections Affected

R9-22-1901
R9-22-1902
R9-22-1903
R9-22-1904
R9-22-1905
R9-22-1906
R9-22-1907
R9-22-1908
R9-22-1909
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R9-22-1912
R9-22-1913
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R9-22-1918
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R9-22-1922

Rulemaking Action

New Section
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2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statute: A.R.S. § 36-2903.01

Implementing statute: A.R.S. § 36-2929

3. The effective date of the rules:

January 1, 2003

4. A list of all previous notices appearing in the Register addressing the exempt rule:

Notice of Rulemaking Docket Opening: 8 A.A.R. 3484, August 9, 2002

5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Barbara Ledder, Federal and State Policy Manager

Address: AHCCCS
Office of Policy Analysis and Coordination
801 E. Jefferson, Mail Drop 4200
Phoenix, AZ 85034

Telephone: (602) 417-4580

Fax: (602) 256-6756

6. An explanation of the rule, including the agency's reasons for initiating the rule, including the statutory citation to the exemption from the regular rulemaking procedures:

The Administration has developed rules for Laws 2001, Ch. 385, which added A.R.S. § 36-2929 to expand coverage to employed individuals 16 through 64 years of age who have countable income under 250% FPL and who are:

1. Determined disabled by DDSA; or
2. No longer disabled by DDSA but continue to have a medically improved disability.

This rule is exempt from the rulemaking process under Laws 2002, Ch. 329 § 35.

7. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on in its evaluation of or justification for the rule or proposes not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

Not applicable

8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

9. The summary of the economic, small business, and consumer impact:

Not applicable

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

Not applicable

11. A summary of the principal comments and the agency response to them:

Not applicable

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable

13. Incorporations by reference and their location in the rules:

Not applicable

14. Was this rule previously adopted as an emergency rule?

No

15. The full text of the rules follows:

9. HEALTH SERVICES

**CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM
ADMINISTRATION**

ARTICLE 19. FREEDOM TO WORK

Section

R9-22-1901. General Freedom to Work Requirements

R9-22-1902. General Administration Requirements

R9-22-1903. Application for Coverage

R9-22-1904. Notice of Approval or Denial

R9-22-1905. Reporting and Verifying Changes

R9-22-1906. Actions That Result From a Redetermination or Change

R9-22-1907. Notice of Adverse Action Requirements

R9-22-1908. Request For Hearing

R9-22-1909. Social Security Number

R9-22-1910. State Residency

R9-22-1911. Citizenship and Immigrant Status

R9-22-1912. Age

R9-22-1913. Premium

R9-22-1914. Income

R9-22-1915. Institutionalized Person

R9-22-1916. Non Payment of Premium

R9-22-1917. Applicant and Member Responsibility

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R9-22-1918. Additional Eligibility Criteria for the Basic Coverage Group

R9-22-1919. Additional Eligibility Criteria for the Medically Improved Group

R9-22-1920. Premium Amount

R9-22-1921. Enrollment

R9-22-1922. Redetermination of Eligibility

ARTICLE 19. FREEDOM TO WORK

R9-22-1901. General Freedom to Work Requirements

Under 42 U.S.C. 1396a(a)(10)(A)(ii)(XV) and (XVI), the Administration shall determine eligibility for AHCCCS medical services, under Article 2 of this Chapter, using the eligibility criteria and requirements under this Article for an applicant or member who is:

1. At least 16 years of age, but less than 65 years of age,
2. Employed, and
3. Not income eligible under A.R.S. § 36-2901(6)(a).

R9-22-1902. General Administration Requirements

The Administration shall comply with the confidentiality rule under R9-22-1501(B) and Title VI compliance rule under R9-22-1501(M). Terms used in this Article are defined in Article 1 of this Chapter unless otherwise specified.

R9-22-1903. Application for Coverage

- A. A person may apply by submitting a signed application to an Administration office.
- B. The application date is the date the application is received at an Administration office.
- C. The applicant, a minor applicant's parent, the applicant's legal or authorized representative, or if the applicant is incapacitated, someone acting responsibly on behalf of the applicant may file the application. An application shall be witnessed and signed by a third party if an applicant signs an application with a mark.
- D. The applicant or representative who files the application may withdraw the application for coverage either orally or in writing. An applicant withdrawing an application shall receive a denial notice under R9-22-1904.
- E. Except as provided in 42 CFR 435.911, the Administration shall determine eligibility within 45 days.

R9-22-1904. Notice of Approval or Denial

The Administration shall send an applicant a written notice of the decision regarding the application. This notice shall include a statement of the action, and:

1. If approved, the notice shall contain:
 - a. The effective date of eligibility,
 - b. The amount the person shall pay, and
 - c. An explanation of the person's hearing rights specified in Article 8 of this Chapter.
2. If denied, R9-22-1501(F)(3) applies.

R9-22-1905. Reporting and Verifying Changes

An applicant or member shall report, as described under R9-22-1501(G)(3), (4), (5), and (6), to the Administration the following changes:

1. Change of address,
2. Change in income,
3. Change in employment status,
4. Change in school attendance if under age 22,
5. Change in Arizona state residency;
6. Change in first- or third-party liability which may contribute to the payment of all or a portion of the person's medical costs,
7. Admission to a public institution,
8. Admission to a Institution for Mental Disease,
9. Improvement in the person's medical condition,
10. Death,
11. Change in U.S. citizenship or immigrant status,
12. Change in disability status,
13. Change in impairment related work or other expenses, or
14. Any other change that may affect the member or applicant's eligibility.

R9-22-1906. Actions That Result From a Redetermination or Change

The processing of a redetermination or change shall result in one of the following actions:

1. No change in eligibility or premium,
2. Discontinuance of eligibility if a condition of eligibility is no longer met,

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3. A change in premium amount, or
4. A change in the coverage group under which a person receives AHCCCS medical coverage.

R9-22-1907. Notice of Adverse Action Requirements

- A.** The requirements under R9-22-1501(J)(1) apply.
- B.** Advance notice of a change in eligibility or premium amount. Advance notice means a notice of proposed action that is issued to the member at least 10 days before the effective date of the proposed action. Except under subsection (C), advance notice shall be issued whenever an adverse action is taken to discontinue eligibility, or increase the premium amount.
- C.** Exceptions from advance notice. A notice shall be issued to the member to discontinue eligibility no later than the effective date of action if:
1. A member provides a clearly written statement, signed by that member, that services are no longer wanted.
 2. A member provides information that requires termination of eligibility and a member signs a written statement waiving advance notice;
 3. A member cannot be located and mail sent to the member's last known address has been returned as undeliverable subject to reinstatement of discontinued services under 42 CFR 431.231(d);
 4. A member has been admitted to a public institution where a person is ineligible for coverage;
 5. A member has been approved for Medicaid in another state; or
 6. The Administration receives information confirming the death of a member.

R9-22-1908. Request For Hearing

An applicant or member may request a hearing under Article 8 of this Chapter for the following adverse actions:

1. The determination of a premium amount under R9-22-1920, and
2. Actions listed in R9-22-803.

R9-22-1909. Social Security Number

As a condition of eligibility, an applicant shall furnish a valid SSN.

R9-22-1910. State Residency

As a condition of eligibility, an applicant or member shall be a resident of Arizona.

R9-22-1911. Citizenship and Immigrant Status

As a condition of eligibility an applicant or member shall be a citizen of the United States, or shall meet requirements for qualified alien under A.R.S. § 36-2903.03(B).

R9-22-1912. Age

As a condition of eligibility an applicant or member shall be at least 16 years of age, but less than 65 years of age.

R9-22-1913. Premium

As a condition of eligibility, an applicant or member shall pay the premium required under R9-22-1920.

R9-22-1914. Income

As a condition of eligibility, an applicant or member's countable income shall not exceed 250 percent of FPL. The Administration shall count the income under 42 U.S.C. 1382a and 20 CFR 416 Subpart K with the following exceptions:

1. The unearned income of the applicant or member shall be disregarded,
2. The income of a spouse or other family members shall be disregarded, and
3. The deduction for a minor child shall not apply.

R9-22-1915. Institutionalized Person

A person is not eligible for AHCCCS medical coverage if the person is:

1. An inmate of a public institution if federal financial participation (FFP) is not available, or
2. Age 21 through age 64 and is residing in an Institution for Mental Disease under 42 CFR 435.1009 except when allowed under the Administration's Section 1115 IMD waiver with CMS.

R9-22-1916. Non Payment of Premium

As a condition of eligibility, an applicant shall not have unpaid premiums as defined under R9-22-1920.

R9-22-1917. Applicant and Member Responsibility

As a condition of eligibility, an applicant or member shall comply with the provisions under R9-22-1502(D) and R9-22-1502(F).

R9-22-1918. Additional Eligibility Criteria for the Basic Coverage Group

An applicant or member shall meet the following eligibility criteria:

1. Disabled. As a condition of eligibility, an applicant or member shall be disabled. Disabled means a person who has been determined disabled by the Department of Economic Security, Disability Determination Services Administra-

tion, under 42 U.S.C. 1382c(a)(3)(A) through (E), except employment activity, earnings, and substantial gainful activity shall not be considered in determining whether the individual meets the definition of disability.

2. Employed. As a condition of eligibility, an applicant or member shall be employed. Employed means that an applicant or member is paid for working and Social Security or Medicare taxes are paid on the applicant or member's work.

R9-22-1919. Additional Eligibility Criteria for the Medically Improved Group

As a condition of eligibility for the Medically Improved Group, a member shall:

1. Be employed. Under this Section, employed means an individual who:
 - a. Earns at least the minimum wage and works at least 40 hours per month, or
 - b. Has gross monthly earnings at least equal to those earned by an individual who is earning the minimum wage working 40 hours per month.
2. Cease to be eligible for medical coverage under R9-22-1918 because the member, by reason of medical improvement, is determined at the time of a regularly scheduled continuing disability review to no longer be disabled; and
3. Continues to have a severe medically determinable impairment, as determined under regulations of the federal government.

R9-22-1920. Premium Amount

The Administration shall process premiums under Article 14 of this Chapter with the following exceptions:

1. A member who has countable income:
 - a. Under \$500, the monthly premium payment shall be \$0.
 - b. Over \$500 but not greater than \$750, the monthly premium payment shall be \$10.
2. The premium for a member shall be increased by \$5 for each \$250 increase in countable income above \$750.

R9-22-1921. Enrollment

The Administration shall enroll members under Article 17 of this Chapter. If a member has not paid a required premium, the Administration shall not grant a guaranteed enrollment period.

R9-22-1922. Redetermination of Eligibility

- A. Redetermination.** Except as provided in subsection (B), the Administration shall complete a redetermination of eligibility at least once a year.
- B. Change in circumstance.** The Administration may complete a redetermination of eligibility if there is a change in the member's circumstances, including a change in disability or employment that may affect eligibility.
- C. Medical Improvement.** If a member is no longer disabled under R9-22-1918, the Administration shall determine if the member is eligible under other coverage groups including the medically improved group.

NOTICE OF EXEMPT RULEMAKING

9. HEALTH SERVICES

**CHAPTER 28. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM
ARIZONA LONG-TERM CARE SYSTEM**

PREAMBLE

1. Sections Affected

R9-28-1301
R9-28-1302
R9-28-1303
R9-28-1304
R9-28-1305
R9-28-1306
R9-28-1307
R9-28-1308
R9-28-1309
R9-28-1310
R9-28-1311
R9-28-1312
R9-28-1313
R9-28-1314
R9-28-1315
R9-28-1316

Rulemaking Action

New Section
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| R9-28-1317 | New Section |
| R9-28-1318 | New Section |
| R9-28-1319 | New Section |
| R9-28-1320 | New Section |
| R9-28-1321 | New Section |
| R9-28-1322 | New Section |
| R9-28-1323 | New Section |
| R9-28-1324 | New Section |

2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statute: A.R.S. § 36-2932

Implementing statute: A.R.S. § 36-2950

3. The effective date of the rules:

January 1, 2003

4. A list of all previous notices appearing in the Register addressing the exempt rule:

Notice of Rulemaking Docket Opening: 8 A.A.R. 3484, August 9, 2002

5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Barbara Ledder, Federal and State Policy Manager

Address: AHCCCS
Office of Policy Analysis and Coordination
801 E. Jefferson, Mail Drop 4200
Phoenix, AZ 85034

Telephone: (602) 417-4580

Fax: (602) 256-6756

6. An explanation of the rule, including the agency's reasons for initiating the rule, including the statutory citation to the exemption from the regular rulemaking procedures:

The Administration has developed rules for Laws 2001, Ch. 385, which added A.R.S. § 36-2950 to expand coverage to employed individuals 16 through 64 years of age who have countable income under 250% FPL and who are:

1. Determined disabled by DDSA or PAS; or
2. No longer disabled by DDSA but continue to have a medically improved disability.

This rule is exempt from the rulemaking process under Laws 2002, Ch. 329 § 35.

7. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on in its evaluation of or justification for the rule or proposes not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

Not applicable

8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

9. The summary of the economic, small business, and consumer impact:

Not applicable

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

Not applicable

11. A summary of the principal comments and the agency response to them:

Not applicable

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable

13. Incorporations by reference and their location in the rules:

Not applicable

14. Was this rule previously adopted as an emergency rule?

No

15. The full text of the rules follows:

9. HEALTH SERVICES

**CHAPTER 28. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM
ARIZONA LONG-TERM CARE SYSTEM**

ARTICLE 13. FREEDOM TO WORK

Section

R9-28-1301. General Freedom to Work Requirements

R9-28-1302. General Administration Requirements

R9-28-1303. Application for Coverage

R9-28-1304. Notice of Approval or Denial

R9-28-1305. Reporting and Verifying Changes

R9-28-1306. Actions That Result From a Redetermination or Change

R9-28-1307. Notice of Adverse Action Requirements

R9-28-1308. Request For Hearing

R9-28-1309. Social Security Number

R9-28-1310. State Residency

R9-28-1311. Citizenship and Immigrant Status

R9-28-1312. Age

R9-28-1313. Premium

R9-28-1314. Income

R9-28-1315. Living Arrangement

R9-28-1316. Institutionalized Person

R9-28-1317. Medical Eligibility

R9-28-1318. Non Payment of Premium

R9-28-1319. Applicant and Member Responsibility

R9-28-1320. Additional Eligibility Criteria for the Basic Coverage Group

R9-28-1321. Share of Cost

R9-28-1322. Premium Amount

R9-28-1323. Enrollment

R9-28-1324. Redetermination of Eligibility

ARTICLE 13. FREEDOM TO WORK

R9-28-1301. General Freedom to Work Requirements

Under 42 U.S.C. 1396a(a)(10)(A)(ii)(XV) and (XVI), the Administration shall determine eligibility for AHCCCS medical services, under Article 2 of this Chapter, using the eligibility criteria and requirements under this Article for an applicant or member who is:

1. At least 16 years of age, but less than 65 years of age,
2. Employed, and
3. Not income or resource eligible under A.R.S. § 36-2934.

R9-28-1302. General Administration Requirements

The Administration shall comply with the confidentiality rule under R9-28-401(H), Title VI compliance rule under R9-28-401(I) and transitional rule under R9-28-411(E). Terms used in this Article are defined in Article 1 of this Chapter unless otherwise specified.

R9-28-1303. Application for Coverage

A. A person may apply by submitting a signed application to an Administration office.

B. The application date is the date the application is received at an Administration office.

C. The applicant, a minor applicant's parent, the applicant's legal or authorized representative, or if the applicant is incapacitated, someone acting responsibly on behalf of the applicant may file the application. An application shall be witnessed and signed by a third party if an applicant signs an application with a mark.

D. The applicant or representative who files the application may withdraw the application for coverage either orally or in writing. An applicant withdrawing an application shall receive a denial notice under R9-28-1304.

E. Except as provided in 42 CFR 435.911, the Administration shall determine eligibility within 45 days.

R9-28-1304. Notice of Approval or Denial

The Administration shall send an applicant a written notice of the decision regarding the application. This notice shall include a statement of the action, and:

1. If approved, the notice shall contain:
 - a. The effective date of eligibility.
 - b. The amount the person shall pay, and
 - c. An explanation of the person's hearing rights specified in Article 8 of this Chapter.
2. If denied, R9-28-401(G)(2) applies.

R9-28-1305. Reporting and Verifying Changes

An applicant or member shall report, as described under R9-28-411(A)(2), (3), (4), and (5), to the Administration the following changes:

1. Change of address.
2. Change in income.
3. Change in employment status.
4. Change in school attendance if under age 22.
5. Change in Arizona state residency.
6. Change in first- or third-party liability which may contribute to the payment of all or a portion of the person's medical costs.
7. Admission to a public institution.
8. Admission to a Institution for Mental Disease.
9. Improvement in the person's medical condition.
10. Death.
11. Change in U.S. citizenship or immigrant status.
12. Change in disability status.
13. Change in spouse's income that may affect the share of cost.
14. Change in impairment related work or other expenses, or
15. Any other change that may affect the member or applicant's eligibility or share of cost.

R9-28-1306. Actions That Result From a Redetermination or Change

The processing of a redetermination or change shall result in one of the following actions:

1. No change in eligibility, share-of-cost, or premium.
2. Discontinuance of eligibility if a condition of eligibility is no longer met.
3. A change in the person's share-of-cost.
4. A change in premium amount, or
5. A change in the coverage group under which a person receives AHCCCS medical coverage.

R9-28-1307. Notice of Adverse Action Requirements

A. The requirements under R9-28-411(D)(1) apply.

B. Advance notice of a change in eligibility, share of cost, or premium amount. Advance notice means a notice of proposed action that is issued to the member at least 10 days before the effective date of the proposed action. Except under subsection (C), advance notice shall be issued whenever an adverse action is taken to:

1. Discontinue eligibility.
2. Increase a person's share-of-cost;
3. Increase the premium amount, or
4. Reduce benefits from ALTCS to acute care services.

C. Exceptions from advance notice. A notice shall be issued to the member to discontinue eligibility no later than the effective date of action if:

1. A member provides a clearly written statement, signed by that member, that services are no longer wanted.
2. A member provides information that requires termination of eligibility and a member signs a written statement waiving advance notice;
3. A member cannot be located and mail sent to the member's last known address has been returned as undeliverable subject to reinstatement of discontinued services under 42 CFR 431.231(d);
4. A member has been admitted to a public institution where a person is ineligible for coverage;
5. A member has been approved for Medicaid in another state; or
6. The Administration receives information confirming the death of a member.

R9-28-1308. Request For Hearing

An applicant or member may request a hearing under Article 8 of this Chapter for the following adverse actions:

1. The determination of a premium amount under R9-28-1322, and
2. Actions listed in R9-28-803.

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R9-28-1309. Social Security Number

As a condition of eligibility, an applicant shall furnish a valid SSN.

R9-28-1310. State Residency

As a condition of eligibility, an applicant or member shall be a resident of Arizona.

R9-28-1311. Citizenship and Immigrant Status

As a condition of eligibility an applicant or member shall be a citizen of the United States, or shall meet requirements for qualified alien under A.R.S. § 36-2903.03(B).

R9-28-1312. Age

As a condition of eligibility an applicant or member shall be at least 16 years of age, but less than 65 years of age.

R9-28-1313. Premium

As a condition of eligibility, an applicant or member shall pay the premium required under R9-28-1322.

R9-28-1314. Income

As a condition of eligibility, an applicant or member's countable income shall not exceed 250 percent of FPL. The Administration shall count the income under 42 U.S.C. 1382a and 20 CFR 416 Subpart K with the following exceptions:

1. The unearned income of the applicant or member shall be disregarded.
2. The income of a spouse or other family members shall be disregarded, and
3. The deduction for a minor child shall not apply.

R9-28-1315. Living Arrangement

As a condition of eligibility, an applicant or member shall reside in a living arrangement defined under R9-28-406(A).

R9-28-1316. Institutionalized Person

A person is not eligible for AHCCCS medical coverage if the person is:

1. An inmate of a public institution if federal financial participation (FFP) is not available, or
2. Age 21 through age 64 and is residing in an Institution for Mental Disease under 42 CFR 435.1009 except when allowed under the Administration's Section 1115 IMD waiver with CMS.

R9-28-1317. Medical Eligibility

As a condition of eligibility, an applicant or member shall meet the medical criteria under Article 3 of this Chapter.

R9-28-1318. Non Payment of Premium

As a condition of eligibility, an applicant shall not have unpaid premiums as defined under R9-28-1322.

R9-28-1319. Applicant and Member Responsibility

As a condition of eligibility, an applicant or member shall comply with the provisions under R9-22-1502(D) and R9-22-1502(F).

R9-28-1320. Additional Eligibility Criteria for the Basic Coverage Group

An applicant or member shall meet the following eligibility criteria:

1. Disabled. An applicant or member shall meet the requirements under Article 3 of this Chapter.
2. Employed. As a condition of eligibility, an applicant or member shall be employed. Employed means that an applicant or member is paid for working and Social Security or Medicare taxes are paid on the applicant's or member's work.

R9-28-1321. Share of Cost

The Director shall determine the amount a person shall pay for the cost of ALTCS services (share-of-cost) under A.R.S. § 36-2932(L) and 42 CFR 435.725 or 42 CFR 435.726. Share of cost shall be calculated for people who reside in a medical institution for an entire calendar month under R9-28-408(G) and R9-28-410(C) except that the personal-needs allowance shall be increased by 50 percent of the member's earned income.

R9-28-1322. Premium Amount

The Administration shall process premiums under Article 14 of this Chapter with the following exceptions:

1. A member who resides in a HCBS setting under R9-28-406(A)(2) and has countable income:
 - a. Under \$500, the monthly premium payment shall be \$0.
 - b. Over \$500 but not greater than \$750, the monthly premium payment shall be \$10.
2. The premium for a member who resides in a HCBS setting under R9-28-406(A)(2) shall be increased by \$5 for each \$250 increase in countable income above \$750.
3. For a member living in a medical institution for a full calendar month, the monthly premium payment shall be \$0.

R9-28-1323. Enrollment

The Administration shall enroll members under R9-28-412 through R9-28-418.

R9-28-1324. Redetermination of Eligibility

- A.** Redetermination. Except as provided in subsection (B), the Administration shall complete a redetermination of eligibility at least once a year.
- B.** Change in circumstance. The Administration may complete a redetermination of eligibility if there is a change in the member's circumstances, including a change in disability or employment that may affect eligibility.
- C.** Medical Improvement. If a member is no longer disabled under Article 3 of this Chapter, the Administration shall determine if the member is eligible under other coverage groups.